

107TH CONGRESS
2D SESSION

H. R. 4882

To revise and modernize the provisions of law governing the commissioned officer corps of the National Oceanic and Atmospheric Administration.

IN THE HOUSE OF REPRESENTATIVES

JUNE 6, 2002

Mr. YOUNG of Alaska (for himself, Mr. GILCHREST, and Mr. SAXTON) introduced the following bill; which was referred to the Committee on Resources

A BILL

To revise and modernize the provisions of law governing the commissioned officer corps of the National Oceanic and Atmospheric Administration.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “National Oceanic and Atmospheric Administration Com-
6 missioned Officer Corps Act of 2002”.

7 (b) TABLE OF CONTENTS.—The table of contents of
8 this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—GENERAL PROVISIONS

- Sec. 101. Commissioned officer corps.
- Sec. 102. Definitions.
- Sec. 103. Authorized number on the active list.
- Sec. 104. Strength and distribution in grade.
- Sec. 105. Authorized number for fiscal years 2003 through 2008.

TITLE II—APPOINTMENT AND PROMOTION OF OFFICERS

- Sec. 201. Original appointments.
- Sec. 202. Personnel boards.
- Sec. 203. Promotion of ensigns to grade of lieutenant (junior grade).
- Sec. 204. Promotion by selection to permanent grades above lieutenant (junior grade).
- Sec. 205. Length of service for promotion purposes.
- Sec. 206. Appointments and promotions to permanent grades.
- Sec. 207. General qualification of officers for promotion to higher permanent grade.
- Sec. 208. Positions of importance and responsibility.
- Sec. 209. Temporary appointments and promotions generally.
- Sec. 210. Temporary appointment or advancement of commissioned officers in time of war or national emergency.
- Sec. 211. Pay and allowances; date of acceptance of promotion.
- Sec. 212. Service credit as deck officer or junior engineer for promotion purposes.
- Sec. 213. Suspension during war or emergency.

TITLE III—SEPARATION AND RETIREMENT OF OFFICERS

- Sec. 301. Involuntary retirement or separation.
- Sec. 302. Separation pay.
- Sec. 303. Mandatory retirement for age.
- Sec. 304. Retirement for length of service.
- Sec. 305. Computation of retired pay.
- Sec. 306. Retired grade and retired pay.
- Sec. 307. Retired rank and pay held pursuant to other laws unaffected.
- Sec. 308. Continuation on active duty; deferral of retirement.
- Sec. 309. Recall to active duty.

TITLE IV—SERVICE OF OFFICERS WITH THE MILITARY DEPARTMENTS

- Sec. 401. Cooperation with and transfer to military departments.
- Sec. 402. Relative rank of officers when serving with Army, Navy, or Air Force.
- Sec. 403. Rules and regulations when cooperating with military departments.

TITLE V—RIGHTS AND BENEFITS

- Sec. 501. Applicability of certain provisions of title 10, United States Code.
- Sec. 502. Eligibility for veterans benefits and other rights, privileges, immunities, and benefits under certain provisions of law.
- Sec. 503. Medical and dental care.
- Sec. 504. Commissary privileges.
- Sec. 505. Authority to use appropriated funds for transportation and reimbursement of certain items.
- Sec. 506. Presentation of United States flag upon retirement.

TITLE VI—REPEALS AND CONFORMING AMENDMENTS

Sec. 601. Repeals.

Sec. 602. Conforming amendments.

1 **TITLE I—GENERAL PROVISIONS**

2 **SEC. 101. COMMISSIONED OFFICER CORPS.**

3 There shall be in the National Oceanic and Atmos-
4 pheric Administration a commissioned officer corps.

5 **SEC. 102. DEFINITIONS.**

6 (a) **APPLICABILITY OF DEFINITIONS IN TITLE 10,**
7 **UNITED STATES CODE.**—Except as provided in subsection
8 (b), the definitions provided in section 101 of title 10,
9 United States Code, apply to the provisions of this Act.

10 (b) **ADDITIONAL DEFINITIONS.**—In this Act:

11 (1) **ACTIVE DUTY.**—The term “active duty”
12 means full-time duty in the active service of a uni-
13 formed service.

14 (2) **GRADE.**—The term “grade” means a step
15 or degree, in a graduated scale of office or rank,
16 that is established and designated as a grade by law
17 or regulation.

18 (3) **OFFICER.**—The term “officer” means an
19 officer of the commissioned corps.

20 (4) **FLAG OFFICER.**—The term “flag officer”
21 means an officer serving in, or having the grade of,
22 vice admiral, rear admiral, or rear admiral (lower
23 half).

1 (5) SECRETARY.—The term “Secretary” means
2 the Secretary of Commerce.

3 (6) ADMINISTRATION.—The term “Administra-
4 tion” means the National Oceanic and Atmospheric
5 Administration.

6 **SEC. 103. AUTHORIZED NUMBER ON THE ACTIVE LIST.**

7 (a) ANNUAL STRENGTH ON ACTIVE LIST.—The an-
8 nual strength of the commissioned corps in officers on the
9 lineal list of active duty officers of the corps shall be pre-
10 scribed by law.

11 (b) LINEAL LIST.—The Secretary shall maintain a
12 list, known as the “lineal list”, of officers on active duty.
13 Officers shall be carried on the lineal list by grade and,
14 within grade, by seniority in grade.

15 **SEC. 104. STRENGTH AND DISTRIBUTION IN GRADE.**

16 (a) RELATIVE RANK; PROPORTION.—Of the total au-
17 thorized number of officers on the lineal list of the com-
18 missioned corps, there are authorized numbers in perma-
19 nent grade, in relative rank with officers of the Navy, in
20 proportions as follows:

- 21 (1) 8 in the grade of captain.
22 (2) 14 in the grade of commander.
23 (3) 19 in the grade of lieutenant commander.
24 (4) 23 in the grade of lieutenant.
25 (5) 18 in the grade of lieutenant (junior grade).

1 (6) 18 in the grade of ensign.

2 (b) COMPUTATION OF NUMBER IN GRADE.—

3 (1) IN GENERAL.—Subject to paragraph (2),
4 whenever a final fraction occurs in computing the
5 authorized number of officers in a grade, the nearest
6 whole number shall be taken, and if the fraction is
7 one-half the next higher whole number shall be
8 taken.

9 (2) LIMITATION ON INCREASE IN TOTAL NUM-
10 BER.—The total number of officers on the lineal list
11 authorized by law may not be increased as the result
12 of the computations prescribed in this section, and
13 if necessary the number of officers in the lowest
14 grade shall be reduced accordingly.

15 (c) PRESERVATION OF GRADE AND PAY, ETC.—No
16 officer may be reduced in grade or pay or separated from
17 the commissioned corps as the result of a computation
18 made to determine the authorized number of officers in
19 the various grades.

20 (d) FILLING OF VACANCIES; ADDITIONAL NUM-
21 BERS.—Nothing in this section may be construed as re-
22 quiring the filling of any vacancy or as prohibiting addi-
23 tional numbers in any grade to compensate for vacancies
24 existing in higher grades.

1 (e) TEMPORARY INCREASE IN NUMBERS.—The total
 2 number of officers authorized by law to be on the lineal
 3 list during a fiscal year may be temporarily exceeded so
 4 long as the average number on that list during that fiscal
 5 year does not exceed the authorized number.

6 **SEC. 105. AUTHORIZED NUMBER FOR FISCAL YEARS 2003**
 7 **THROUGH 2008.**

8 There are authorized to be not less than 264 and not
 9 more than 299 officers on the lineal list of the commis-
 10 sioned corps of the National Oceanic and Atmospheric Ad-
 11 ministration for each of fiscal years 2003 through 2008.

12 **TITLE II—APPOINTMENT AND**
 13 **PROMOTION OF OFFICERS**

14 **SEC. 201. ORIGINAL APPOINTMENTS.**

15 (a) IN GENERAL.—

16 (1) GRADES.—Original appointments may be
 17 made in the grades of ensign, lieutenant (junior
 18 grade), and lieutenant.

19 (2) QUALIFICATIONS.—Under regulations pre-
 20 scribed by the Secretary, such an appointment may
 21 be given only to a person who—

22 (A) meets the qualification requirements
 23 specified in paragraphs (1) through (4) of sec-
 24 tion 532(a) of title 10, United States Code; and

1 (B) has such other special qualifications as
2 the Secretary may prescribe by regulation.

3 (3) EXAMINATION.—A person may be given
4 such an appointment only after passage of a mental
5 and physical examination given in accordance with
6 regulations prescribed by the Secretary.

7 (4) REVOCATION OF COMMISSION OF OFFICERS
8 FOUND NOT QUALIFIED.—The President may revoke
9 the commission of any officer appointed under this
10 section during the officer's first three years of serv-
11 ice if the officer is found not qualified for the serv-
12 ice. Any such revocation shall be made under regula-
13 tions prescribed by the President.

14 (b) LINEAL LIST.—Each person appointed under this
15 section shall be placed on the lineal list in a position com-
16 mensurate with that person's age, education, and experi-
17 ence, in accordance with regulations prescribed by the Sec-
18 retary.

19 (c) SERVICE CREDIT UPON ORIGINAL APPOINTMENT
20 IN GRADE ABOVE ENSIGN.—

21 (1) IN GENERAL.—For the purposes of basic
22 pay, a person appointed under this section in the
23 grade of lieutenant shall be credited as having, on
24 the date of that appointment, three years of service,
25 and a person appointed under this section in the

1 grade of lieutenant (junior grade) shall be credited
2 as having, as of the date of that appointment, 1½
3 years of service.

4 (2) HIGHER CREDIT UNDER OTHER LAW.—If a
5 person appointed under this section is entitled to
6 credit for the purpose of basic pay under any other
7 provision of law that would exceed the amount of
8 credit authorized by paragraph (1), that person shall
9 be credited with that amount of service in lieu of the
10 credit authorized by paragraph (1).

11 **SEC. 202. PERSONNEL BOARDS.**

12 (a) CONVENING.—At least once a year and at such
13 other times as the Secretary determines necessary, the
14 Secretary shall convene a personnel board. A personnel
15 board shall consist of not less than five officers on the
16 lineal list in the permanent grade of commander or above.

17 (b) DUTIES.—Each personnel board shall—

18 (1) recommend to the Secretary such changes
19 in the lineal list as the board may determine; and

20 (2) make selections and recommendations to
21 the Secretary and President for the appointment,
22 promotion, separation, continuation, and retirement
23 of officers as prescribed in this title and title III.

24 (c) ACTION ON RECOMMENDATIONS NOT ACCEPT-
25 ABLE.—In a case in which any recommendation by a

1 board convened under subsection (a) is not accepted by
2 the Secretary or the President, the board shall make such
3 further recommendations as are acceptable.

4 **SEC. 203. PROMOTION OF ENSIGNS TO GRADE OF LIEUTEN-**
5 **ANT (JUNIOR GRADE).**

6 (a) IN GENERAL.—An officer in the permanent grade
7 of ensign shall be promoted to and appointed in the grade
8 of lieutenant (junior grade) upon completion of three years
9 of service. The authorized number of officers in the grade
10 of lieutenant (junior grade) shall be temporarily increased
11 as necessary to authorize such appointment.

12 (b) SEPARATION OF ENSIGNS FOUND NOT FULLY
13 QUALIFIED.—If an officer in the permanent grade of en-
14 sign is at any time found not fully qualified, the officer's
15 commission shall be revoked and the officer shall be sepa-
16 rated from the commissioned service.

17 **SEC. 204. PROMOTION BY SELECTION TO PERMANENT**
18 **GRADES ABOVE LIEUTENANT (JUNIOR**
19 **GRADE).**

20 Promotion to fill vacancies in each permanent grade
21 above the grade of lieutenant (junior grade) shall be made
22 by selection from the next lower grade upon recommenda-
23 tion of the personnel board.

1 **SEC. 205. LENGTH OF SERVICE FOR PROMOTION PUR-**
2 **POSES.**

3 (a) GENERAL RULE.—Each officer shall be assumed
4 to have, for promotion purposes, at least the same length
5 of service as any other officer below that officer on the
6 lineal list.

7 (b) EXCEPTION.—Notwithstanding subsection (a), an
8 officer who has lost numbers shall be assumed to have,
9 for promotion purposes, no greater service than the officer
10 next above such officer in such officer's new position on
11 the lineal list.

12 **SEC. 206. APPOINTMENTS AND PROMOTIONS TO PERMA-**
13 **NENT GRADES.**

14 Appointments in and promotions to all permanent
15 grades shall be made by the President, by and with the
16 advice and consent of the Senate.

17 **SEC. 207. GENERAL QUALIFICATION OF OFFICERS FOR**
18 **PROMOTION TO HIGHER PERMANENT**
19 **GRADE.**

20 No officer may be promoted to a higher permanent
21 grade on the active list until the officer has passed a satis-
22 factory mental and physical examination in accordance
23 with regulations prescribed by the Secretary.

1 **SEC. 208. POSITIONS OF IMPORTANCE AND RESPONSIBILITY.**
2

3 (a) DESIGNATION OF POSITIONS.—The Secretary
4 may designate positions in the Administration as being po-
5 sitions of importance and responsibility for which it is ap-
6 propriate that officers of the Administration, if serving in
7 those positions, serve in the grade of vice admiral, rear
8 admiral, or rear admiral (lower half), as designated by the
9 Secretary for each position.

10 (b) ASSIGNMENT OF OFFICERS TO DESIGNATED PO-
11 SITIONS.—The Secretary may assign officers to positions
12 designated under subsection (a).

13 (c) DIRECTOR OF NOAA CORPS.—The Secretary
14 shall designate one position under this section as the Di-
15 rector of the commissioned corps, to be filled by an officer
16 on the lineal list serving in or above the grade of rear ad-
17 miral (lower half). The Director shall be responsible for
18 administration of the officers, and for oversight of the op-
19 eration of the vessel fleet, of the Administration.

20 (d) GRADE.—

21 (1) TEMPORARY APPOINTMENT TO GRADE DES-
22 IGNATED FOR POSITION.—An officer assigned to a
23 position under this section while so serving has the
24 grade designated for that position, if appointed to
25 that grade by the President, by and with the advice
26 and consent of the Senate.

1 (2) REVERSION TO PERMANENT GRADE.—An
2 officer who has served in a grade above captain,
3 upon termination of the officer's assignment to the
4 position for which that appointment was made, shall,
5 unless appointed or assigned to another position for
6 which a higher grade is designated, revert to the
7 grade and number the officer would have occupied
8 but for serving in a grade above that of captain. In
9 such a case, the officer shall be an extra number in
10 that grade.

11 (e) NUMBER OF OFFICERS APPOINTED.—

12 (1) OVERALL LIMIT.—The total number of offi-
13 cers serving on active duty at any one time in the
14 grade of rear admiral (lower half) or above may not
15 exceed four.

16 (2) LIMIT BY GRADE.—The number of officers
17 serving on active duty under appointments under
18 this section may not exceed—

19 (A) one in the grade of vice admiral;

20 (B) two in the grade of rear admiral; and

21 (C) two in the grade of rear admiral (lower
22 half).

23 (f) PAY AND ALLOWANCES.—An officer appointed to
24 a grade under this section, while serving in that grade,

1 shall have the pay and allowances of the grade to which
2 appointed.

3 (g) EFFECT OF APPOINTMENT.—An appointment of
4 an officer under this section—

5 (1) does not vacate the permanent grade held
6 by the officer; and

7 (2) creates a vacancy on the active list.

8 **SEC. 209. TEMPORARY APPOINTMENTS AND PROMOTIONS**
9 **GENERALLY.**

10 (a) ENSIGN.—Temporary appointments in the grade
11 of ensign may be made by the President alone. Each such
12 temporary appointment terminates at the close of the next
13 regular session of the Congress unless the Senate sooner
14 gives its advice and consent to the appointment.

15 (b) LIEUTENANT (JUNIOR GRADE).—Officers in the
16 permanent grade of ensign may be temporarily promoted
17 to and appointed in the grade of lieutenant (junior grade)
18 by the President alone whenever vacancies exist in higher
19 grades.

20 (c) ANY ONE GRADE.—When determined by the Sec-
21 retary to be in the best interest of the service, officers
22 in any permanent grade may be temporarily promoted one
23 grade by the President alone. Any such temporary pro-
24 motion terminates upon the transfer of the officer to a
25 new assignment.

1 **SEC. 210. TEMPORARY APPOINTMENT OR ADVANCEMENT**
2 **OF COMMISSIONED OFFICERS IN TIME OF**
3 **WAR OR NATIONAL EMERGENCY.**

4 (a) IN GENERAL.—Officers of the Administration
5 shall be subject in like manner and to the same extent
6 as personnel of the Navy to all laws authorizing temporary
7 appointment or advancement of commissioned officers in
8 time of war or national emergency.

9 (b) LIMITATIONS.—Subsection (a) shall be applied
10 subject to the following limitations:

11 (1) A commissioned officer in the service of a
12 military department under section 401 may, upon
13 the recommendation of the Secretary of the military
14 department concerned, be temporarily promoted to a
15 higher rank or grade.

16 (2) A commissioned officer in the service of the
17 Administration may be temporarily promoted to fill
18 vacancies in ranks and grades caused by the transfer
19 of commissioned officers to the service and jurisdic-
20 tion of a military department under section 401.

21 (3) Temporary appointments may be made in
22 all grades to which original appointments in the Ad-
23 ministration are authorized, except that the number
24 of officers holding temporary appointments may not
25 exceed the number of officers transferred to a mili-
26 tary department under section 401.

1 **SEC. 211. PAY AND ALLOWANCES; DATE OF ACCEPTANCE**
2 **OF PROMOTION.**

3 (a) ACCEPTANCE AND DATE OF PROMOTION.—An of-
4 ficer of the commissioned corps who is promoted to a high-
5 er grade—

6 (1) is deemed for all purposes to have accepted
7 the promotion upon the date the promotion is made
8 by the President, unless the officer expressly declines
9 the promotion; and

10 (2) shall receive the pay and allowances of the
11 higher grade from that date unless the officer is en-
12 titled under another provision of law to receive the
13 pay and allowances of the higher grade from an ear-
14 lier date.

15 (b) OATH OF OFFICE.—An officer who subscribed to
16 the oath of office required by section 3331 of title 5,
17 United States Code, shall not be required to renew such
18 oath or to take a new oath upon promotion to a higher
19 grade, if the service of the officer after the taking of such
20 oath is continuous.

21 **SEC. 212. SERVICE CREDIT AS DECK OFFICER OR JUNIOR**
22 **ENGINEER FOR PROMOTION PURPOSES.**

23 For purposes of promotion, there shall be counted in
24 addition to active commissioned service, service as deck
25 officer or junior engineer.

1 **SEC. 213. SUSPENSION DURING WAR OR EMERGENCY.**

2 In time of emergency declared by the President or
3 by the Congress, and in time of war, the President is au-
4 thorized, in the President's discretion, to suspend the op-
5 eration of all or any part of the provisions of law per-
6 taining to promotion of commissioned officers of the Ad-
7 ministration.

8 **TITLE III—SEPARATION AND**
9 **RETIREMENT OF OFFICERS**

10 **SEC. 301. INVOLUNTARY RETIREMENT OR SEPARATION.**

11 (a) TRANSFER OF OFFICERS TO RETIRED LIST; SEP-
12 ARATION FROM SERVICE.—As recommended by a per-
13 sonnel board convened under section 202—

14 (1) an officer in the permanent grade of captain
15 or commander may be transferred to the retired list;
16 and

17 (2) an officer in the permanent grade of lieu-
18 tenant commander, lieutenant, or lieutenant (junior
19 grade) who is not qualified for retirement may be
20 separated from the service.

21 (b) COMPUTATIONS.—In any fiscal year, the total
22 number of officers selected for retirement or separation
23 under subsection (a) plus the number of officers retired
24 for age may not exceed the whole number nearest 4 per-
25 cent of the total number of officers authorized to be on
26 the active list, except as otherwise provided by law.

1 (c) EFFECTIVE DATE OF RETIREMENTS AND SEPA-
2 RATIONS.—A retirement or separation under subsection
3 (a) shall take effect on the first day of the sixth month
4 beginning after the date on which the Secretary approves
5 the retirement or separation, except that if the officer con-
6 cerned requests an earlier retirement or separation date,
7 the date shall be as determined by the Secretary.

8 **SEC. 302. SEPARATION PAY.**

9 (a) AUTHORIZATION OF PAYMENT.—An officer who
10 is separated under section 301(a)(2) and who has com-
11 pleted more than three years of continuous active service
12 immediately before that separation is entitled to separa-
13 tion pay computed under subsection (b) unless the Sec-
14 retary determines that the conditions under which the offi-
15 cer is separated do not warrant payment of that pay.

16 (b) AMOUNT OF SEPARATION PAY.—

17 (1) SIX OR MORE YEARS.—In the case of an of-
18 ficer who has completed six or more years of contin-
19 uous active service immediately before that separa-
20 tion, the amount of separation pay to be paid to the
21 officer under this section is 10 percent of the prod-
22 uct of—

23 (A) the years of active service creditable to
24 the officer; and

1 (B) 12 times the monthly basic pay to
2 which the officer was entitled at the time of
3 separation.

4 (2) THREE TO SIX YEARS.—In the case of an
5 officer who has completed three or more but fewer
6 than six years of continuous active service imme-
7 diately before that separation, the amount of separa-
8 tion pay to be paid to the officer under this section
9 is one-half of the amount computed under paragraph
10 (1).

11 (c) OTHER CONDITIONS, REQUIREMENTS, AND AD-
12 MINISTRATIVE PROVISIONS.—The provisions of sub-
13 sections (f), (g), and (h) of section 1174 of title 10, United
14 States Code, shall apply to separation pay under this sec-
15 tion in the same manner as such provisions apply to sepa-
16 ration pay under that section.

17 **SEC. 303. MANDATORY RETIREMENT FOR AGE.**

18 (a) OFFICERS BELOW GRADE OF REAR ADMIRAL
19 (LOWER HALF).—Unless retired or separated earlier,
20 each officer on the lineal list of the commissioned corps
21 who is serving in a grade below the grade of rear admiral
22 (lower half) shall be retired on the first day of the month
23 following the month in which the officer becomes 62 years
24 of age.

1 (b) FLAG OFFICERS.—Notwithstanding subsection
 2 (a), the President may defer the retirement of an officer
 3 serving in a position that carries a grade above captain
 4 for such period as the President considers advisable, but
 5 such a deferment may not extend beyond the first day of
 6 the month following the month in which the officer be-
 7 comes 64 years of age.

8 **SEC. 304. RETIREMENT FOR LENGTH OF SERVICE.**

9 An officer who has completed 20 years of service, of
 10 which at least 10 years was service as a commissioned offi-
 11 cer, may at any time thereafter, upon application by such
 12 officer and in the discretion of the President, be placed
 13 on the retired list.

14 **SEC. 305. COMPUTATION OF RETIRED PAY.**

15 (a) OFFICERS FIRST BECOMING MEMBERS BEFORE
 16 SEPTEMBER 8, 1980.—Each officer on the retired list who
 17 first became a member of a uniformed service before Sep-
 18 tember 8, 1980, shall receive retired pay at the rate deter-
 19 mined by multiplying—

20 (1) the retired pay base determined under sec-
 21 tion 1406(g) of title 10, United States Code; by

22 (2) 2½ percent of the number of years of serv-
 23 ice that may be credited to the officer under section
 24 1405 of such title as if the officer's service were
 25 service as a member of the Armed Forces.

1 The retired pay so computed may not exceed 75 percent
2 of the retired pay base.

3 (b) OFFICERS FIRST BECOMING MEMBERS ON OR
4 AFTER SEPTEMBER 8, 1980.—Each officer on the retired
5 list who first became a member of a uniformed service on
6 or after September 8, 1980, shall receive retired pay at
7 the rate determined by multiplying—

8 (1) the retired pay base determined under sec-
9 tion 1407 of title 10, United States Code; by

10 (2) the retired pay multiplier determined under
11 section 1409 of such title for the number of years
12 of service that may be credited to the officer under
13 section 1405 of such title as if the officer's service
14 were service as a member of the Armed Forces.

15 (c) TREATMENT OF FULL AND FRACTIONAL PARTS
16 OF MONTHS IN COMPUTING YEARS OF SERVICE.—

17 (1) IN GENERAL.—In computing the number of
18 years of service of an officer for the purposes of sub-
19 section (a)—

20 (A) each full month of service that is in
21 addition to the number of full years of service
22 creditable to the officer shall be credited as $\frac{1}{12}$
23 of a year; and

24 (B) any remaining fractional part of a
25 month shall be disregarded.

1 (2) ROUNDING.—Retired pay computed under
2 this section, if not a multiple of \$1, shall be rounded
3 to the next lower multiple of \$1.

4 **SEC. 306. RETIRED GRADE AND RETIRED PAY.**

5 Each officer retired pursuant to law shall be placed
6 on the retired list with the highest grade satisfactorily held
7 by that officer while on active duty including active duty
8 pursuant to recall, under permanent or temporary ap-
9 pointment, and shall receive retired pay based on such
10 highest grade, if—

11 (1) the officer's performance of duty in such
12 highest grade has been satisfactory, as determined
13 by the Secretary of the department or departments
14 under whose jurisdiction the officer served; and

15 (2) unless retired for disability, the officer's
16 length of service in such highest grade is no less
17 than that required by the Secretary of officers retir-
18 ing under permanent appointment in that grade.

19 **SEC. 307. RETIRED RANK AND PAY HELD PURSUANT TO**
20 **OTHER LAWS UNAFFECTED.**

21 Nothing in this title shall prevent an officer from
22 being placed on the retired list with the highest rank and
23 with the highest retired pay to which the officer is entitled
24 under any other provision of law.

1 **SEC. 308. CONTINUATION ON ACTIVE DUTY; DEFERRAL OF**
2 **RETIREMENT.**

3 The provisions of subchapter IV of chapter 36 of title
4 10, United States Code, relating to continuation on active
5 duty and deferral of retirement shall apply to commis-
6 sioned officers of the Administration.

7 **SEC. 309. RECALL TO ACTIVE DUTY.**

8 The provisions of chapter 39 of title 10, United
9 States Code, relating to recall of retired officers to active
10 duty, including the limitations on such recalls, shall apply
11 to commissioned officers of the Administration.

12 **TITLE IV—SERVICE OF OFFI-**
13 **CERS WITH THE MILITARY**
14 **DEPARTMENTS**

15 **SEC. 401. COOPERATION WITH AND TRANSFER TO MILI-**
16 **TARY DEPARTMENTS.**

17 (a) IN GENERAL.—The President may, whenever in
18 the judgment of the President a sufficient national emer-
19 gency exists, transfer to the service and jurisdiction of a
20 military department such vessels, equipment, stations, and
21 officers of the Administration as the President considers
22 to be in the best interest of the country. After any such
23 transfer all expenses connected therewith shall be defrayed
24 out of the appropriations for the department to which the
25 transfer is made. Such transferred vessels, equipment, sta-
26 tions, and officers shall be returned to the Administration

1 when the national emergency ceases, in the opinion of the
2 President. Nothing in this section shall be construed as
3 transferring the Administration or any of its functions
4 from the Department of Commerce except in time of na-
5 tional emergency and to the extent provided in this sec-
6 tion.

7 (b) STATUS OF TRANSFERRED OFFICERS.—An offi-
8 cer of the Administration transferred under this section,
9 shall, while under the jurisdiction of a military depart-
10 ment, have proper military status and shall be subject to
11 the laws, regulations, and orders for the government of
12 the Army, Navy, or Air Force, as the case may be, insofar
13 as the same may be applicable to persons whose retention
14 permanently in the military service of the United States
15 is not contemplated by law.

16 **SEC. 402. RELATIVE RANK OF OFFICERS WHEN SERVING**
17 **WITH ARMY, NAVY, OR AIR FORCE.**

18 When serving with the Army, Navy, or Air Force, an
19 officer of the Administration shall rank with and after of-
20 ficers of corresponding grade in the Army, Navy, or Air
21 Force of the same length of service in grade. Nothing in
22 this title shall be construed to affect or alter an officer's
23 rates of pay and allowances when not assigned to military
24 duty.

1 **SEC. 403. RULES AND REGULATIONS WHEN COOPERATING**
2 **WITH MILITARY DEPARTMENTS.**

3 (a) JOINT REGULATIONS.—The Secretary of Defense
4 and the Secretary of Commerce shall jointly prescribe
5 regulations—

6 (1) governing the duties to be performed by the
7 Administration in time of war; and

8 (2) providing for the cooperation of the Admin-
9 istration with the military departments in time of
10 peace in preparation for its duties in time of war.

11 (b) APPROVAL.—Regulations under subsection (a)
12 shall not be effective unless approved by each of those Sec-
13 retaries.

14 (c) COMMUNICATIONS.—Regulations under sub-
15 section (a) may provide procedures for making reports and
16 communications between a military department and the
17 Administration.

18 **TITLE V—RIGHTS AND BENEFITS**

19 **SEC. 501. APPLICABILITY OF CERTAIN PROVISIONS OF**
20 **TITLE 10, UNITED STATES CODE.**

21 (a) PROVISIONS MADE APPLICABLE TO THE
22 CORPS.—The rules of law that apply to the Armed Forces
23 under the following provisions of title 10, United States
24 Code, as those provisions are in effect from time to time,
25 apply also to the commissioned officer corps of the Admin-
26 istration:

1 (1) Chapter 40, relating to leave.

2 (2) Section 716, relating to transfers between
3 the armed forces and to and from National Oceanic
4 and Atmospheric Administration.

5 (3) Section 1035, relating to deposits of sav-
6 ings.

7 (4) Section 1036, relating to transportation and
8 travel allowances for escorts for dependents of mem-
9 bers.

10 (5) Section 1052, relating to reimbursement for
11 adoption expenses.

12 (6) Section 1174a, relating to special separation
13 benefits (except that benefits under subsection
14 (b)(2)(B) of such section are subject to the avail-
15 ability of appropriations for such purpose and are
16 provided at the discretion of the Secretary of Com-
17 merce).

18 (7) Chapter 61, relating to retirement or sepa-
19 ration for physical disability.

20 (8) Chapter 69, relating to retired grade, except
21 sections 1370, 1375, and 1376.

22 (9) Chapter 71, relating to computation of re-
23 tired pay.

24 (10) Chapter 73, relating to annuities based on
25 retired or retainer pay.

1 (11) Subchapter II of chapter 75, relating to
2 death benefits.

3 (12) Section 2634, relating to transportation of
4 motor vehicles for members on permanent change of
5 station.

6 (13) Sections 2731 and 2735, relating to prop-
7 erty loss incident to service.

8 (14) Section 2771, relating to final settlement
9 of accounts of deceased members.

10 (15) Such other provisions of subtitle A of that
11 title as may be adopted for applicability to the com-
12 missioned officer corps of the National Oceanic and
13 Atmospheric Administration by any other provision
14 of law.

15 (b) REFERENCES.—The authority vested by title 10,
16 United States Code, in the “military departments”, “the
17 Secretary concerned”, or “the Secretary of Defense” with
18 respect to the provisions of law referred to in subsection
19 (a) shall be exercised, with respect to the commissioned
20 officer corps of the Administration, by the Secretary of
21 Commerce or the Secretary’s designee.

1 **SEC. 502. ELIGIBILITY FOR VETERANS BENEFITS AND**
2 **OTHER RIGHTS, PRIVILEGES, IMMUNITIES,**
3 **AND BENEFITS UNDER CERTAIN PROVISIONS**
4 **OF LAW.**

5 (a) IN GENERAL.—Active service of officers of the
6 Administration shall be deemed to be active military serv-
7 ice for the purposes of all rights, privileges, immunities,
8 and benefits under the following:

9 (1) Laws administered by the Secretary of Vet-
10 erans Affairs.

11 (2) The Soldiers' and Sailors' Civil Relief Act
12 of 1940 (50 App. U.S.C. 501 et seq.).

13 (3) Section 210 of the Social Security Act (42
14 U.S.C. 410), as in effect before September 1, 1950.

15 (b) EXERCISE OF AUTHORITY.—In the administra-
16 tion of the laws and regulations referred to in subsection
17 (a), with respect to the Administration, the authority vest-
18 ed in the Secretary of Defense and the Secretaries of the
19 military departments and their respective departments
20 shall be exercised by the Secretary of Commerce.

21 **SEC. 503. MEDICAL AND DENTAL CARE.**

22 The Secretary may provide medical and dental care,
23 including care in private facilities, for personnel of the Ad-
24 ministration entitled to that care by law or regulation.

1 **SEC. 504. COMMISSARY PRIVILEGES.**

2 (a) EXTENSION OF PRIVILEGE.—Commissioned offi-
3 cers, ships' officers, and members of crews of vessels of
4 the Administration shall be permitted to purchase com-
5 missary and quartermaster supplies as far as available
6 from the Armed Forces at the prices charged officers and
7 enlisted members of the Armed Forces.

8 (b) SALES OF RATIONS, STORES, UNIFORMS, AND
9 RELATED EQUIPMENT.—The Secretary may purchase ra-
10 tion supplies for messes, stores, uniforms, accouterments,
11 and related equipment for sale aboard ship and shore sta-
12 tions of the Administration to members of the uniformed
13 services and to personnel assigned to such ships or shore
14 stations. Sales shall be in accordance with regulations pre-
15 scribed by the Secretary, and proceeds therefrom shall, as
16 far as is practicable, fully reimburse the appropriations
17 charged without regard to fiscal year.

18 (c) SURVIVING SPOUSES' RIGHTS.—Rights extended
19 to members of the uniformed services in this section are
20 extended to their surviving spouses and to such others as
21 are designated by the Secretary concerned.

22 **SEC. 505. AUTHORITY TO USE APPROPRIATED FUNDS FOR**
23 **TRANSPORTATION AND REIMBURSEMENT OF**
24 **CERTAIN ITEMS.**

25 (a) TRANSPORTATION OF EFFECTS OF DECEASED
26 OFFICERS.—In the case of an officer who dies on active

1 duty, the Secretary may provide, from appropriations
2 made available to the Administration, transportation (in-
3 cluding packing, unpacking, crating, and uncrating) of
4 personal and household effects of that officer to the offi-
5 cial residence of record of that officer. However, upon ap-
6 plication by the dependents of such an officer, such trans-
7 portation may be provided to such other location as may
8 be determined by the Secretary.

9 (b) REIMBURSEMENT FOR SUPPLIES FURNISHED BY
10 OFFICERS TO DISTRESSED AND SHIPWRECKED PER-
11 SONS.—Under regulations prescribed by the Secretary, ap-
12 propriations made available to the Administration may be
13 used to reimburse an officer for food, clothing, medicines,
14 and other supplies furnished by the officer—

15 (1) for the temporary relief of distressed per-
16 sons in remote localities; or

17 (2) to shipwrecked persons who are temporarily
18 provided for by the officer.

19 **SEC. 506. PRESENTATION OF UNITED STATES FLAG UPON**
20 **RETIREMENT.**

21 (a) PRESENTATION OF FLAG UPON RETIREMENT.—
22 Upon the release of a commissioned officer from active
23 commissioned service for retirement, the Secretary shall
24 present a United States flag to the officer.

1 (b) MULTIPLE PRESENTATIONS NOT AUTHOR-
 2 IZED.—An officer is not eligible for presentation of a flag
 3 under subsection (a) if the officer has previously been pre-
 4 sented a flag under this section or any other provision of
 5 law providing for the presentation of a United States flag
 6 incident to release from active service for retirement.

7 (c) NO COST TO RECIPIENT.—The presentation of a
 8 flag under this section shall be at no cost to the recipient.

9 **TITLE VI—REPEALS AND** 10 **CONFORMING AMENDMENTS**

11 **SEC. 601. REPEALS.**

12 The following provisions of law are repealed:

13 (1) The Coast and Geodetic Survey Commis-
 14 sioned Officers' Act of 1948 (33 U.S.C. 853a et
 15 seq.).

16 (2) Section 3 of the Act of August 10, 1956
 17 (33 U.S.C. 857a).

18 (3) Public Law 91–621 (33 U.S.C. 857–1 et
 19 seq.).

20 (4) Section 16 of the Act of May 22, 1917 (33
 21 U.S.C. 854, 855, 856, 857, and 858).

22 (5) Section 1 of the Act of July 22, 1947 (33
 23 U.S.C. 874).

24 (6) The Act of August 6, 1947 (33 U.S.C. 883a
 25 et seq.).

1 (7) Section 11 of the Act entitled “An Act to
2 increase the efficiency of the commissioned and en-
3 listed personnel of the Army, Navy, Marine Corps,
4 Coast Guard, Coast and Geodetic Survey, and Public
5 Health Service”, enacted May 18, 1920 (33 U.S.C.
6 864).

7 (8) Section 636(a)(17) of the Foreign Assist-
8 ance Act of 1961 (22 U.S.C. 2396(a)(17)).

9 **SEC. 602. CONFORMING AMENDMENTS.**

10 (a) TITLE 10, UNITED STATES CODE.—Section
11 1406(g) of title 10, United States Code, is amended by
12 striking “section 16 of the Coast and Geodetic Survey
13 Commissioned Officers’ Act of 1948 (33 U.S.C. 853o)”
14 and inserting “section 305 of the National Oceanic and
15 Atmospheric Administration Commissioned Officers Act of
16 2002”.

17 (b) PUBLIC LAW 104–106.—Section 566(c) of the
18 National Defense Authorization Act for Fiscal Year 1996
19 (Public Law 104–106; 110 Stat. 328; 10 U.S.C. 1293
20 note) is amended by striking “the Coast and Geodetic Sur-
21 vey Commissioned Officers’ Act of 1948” and inserting
22 “the National Oceanic and Atmospheric Administration
23 Commissioned Officer Corps Act of 2002”.

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